

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BERNHARD CORD, KARL-HEINZ SCHULLER,
and JAROSLAV ZEJDA

Appeal No. 95-4850
Application 08/204,728¹

ON BRIEF

Before JERRY SMITH, LEE and CARMICHAEL, *Administrative Patent Judges*.

CARMICHAEL, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of Claims 1-8 and 14-16. Claims 9-11 and 13 are

¹ Application for patent filed March 1, 1994.

directed to allowable subject matter. Claim 12 was canceled.

Claim 1 reads as follows:

1. Apparatus for heating a substrate in a vacuum chamber, said apparatus comprising

a vacuum chamber having wall means with glass plate means therein,

substrate holding means inside the vacuum chamber,

lamp means outside said vacuum chamber, said lamp means emitting radiation in a first
wavelength range which passes through said glass plate means toward said substrate holding means,
and

heating disk means between said glass plate means and said substrate holding means, said
heating disk means having a high absorption of radiation in said first wavelength range and a high
emission of radiation in a second wavelength range above said first wavelength range.

The examiner's Answer cites the following prior art:

Vu et al. (Vu)	4,581,520	Apr. 8, 1986
Stultz	5,047,611	Sept. 10, 1991
Goto (JP60-236216) (Japan Patent)	60-236216	Nov. 25, 1985
Nakamu et al. (JP5-10677) (Japan Patent)	5-10677	Jan. 19, 1993
Ono (JP62-94925) (Japan Patent)	62-94925	May 1, 1987

OPINION

Claims 1-3 and 14-16 stand rejected under 35 U.S.C. § 103 as unpatentable over Stultz in view of JP60-236216 and further in view of JP5-10677. Claims 4-7 stand rejected under 35 U.S.C. § 103 as unpatentable over Stultz in view of JP60-236216 and further in view of JP5-10677 and even further in view of Vu. Claim 8 stands rejected under 35 U.S.C. § 103 as unpatentable over Stultz in view of JP60-236216 and further in view of JP5-10677 and even further in view of JP62-94925.

The examiner says that it would have been obvious to modify Stultz in view of JP60-236216 and JP5-10677 by adding a heating disk to Stultz. Appellants argue that Stultz teaches away from an intermediate heating disk because it would provide undesirable outside-in heating.

We agree with appellants. The mere fact that the prior art may be modified in the manner suggested by the examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 972 F.2d 1260, 1266 n.14, 23 USPQ2d 1780, 1783-84 n.14 (Fed. Cir. 1992). In the present case, Stultz clearly teaches that no heating disk should be placed between the light and the substrate because that would heat the film from the outside in, which is just the problem Stultz is trying to avoid. Therefore, the rejections will not be sustained.

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CONCLUSION

The rejections are not sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

REVERSED

JERRY SMITH)	
Administrative Patent Judge)	
)	
)	
)	
JAMESON LEE)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS
)	AND
)	INTERFERENCES
)	
JAMES T. CARMICHAEL)	
Administrative Patent Judge)	

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